



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6143-99

6 January 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 22 December 1998 for four years at age 21. The record reflects that you served without incident until 5 February 1999 when you were referred to the legal office for investigation into an incident of oral sex with a male recruit.

On 11 February 1999 you were referred to the mental health unit due to repeated incidents of failure to follow instructions. The evaluation report noted that since arriving at recruit training, you had experienced an inability to get along with your female shipmates, and were constantly reprimanded for fraternizing with male recruits. The command's evaluation of you documented fair to poor performance and opined that you could not adapt to military life, could not follow instructions or guidance from the chain of command, and continued to interact and fraternize with male recruits despite several warnings. You were diagnosed with a mixed personality disorder with borderline and antisocial features, a condition that existed prior to service. Entry level separation was recommended.

On 17 February 1999 you received nonjudicial punishment (NJP) for

violating a lawful general order by having inappropriate physical contact of a sexual nature with a male recruit. Punishment imposed consisted of a forfeiture of \$207 and 14 days of restriction and extra duty.

On 19 February 1999 you were notified that discharge was being considered by reason of misconduct due to commission of a serious offense and defective enlistment and induction due to erroneous enlistment as evidenced by the mixed personality disorder. You were advised of your procedural rights and waived your rights to submit a statement or have your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed an uncharacterized entry level separation and assignment of an RE-4 reenlistment code. You were so discharged on 26 February 1999.

Regulations authorize the assignment of an RE-4 reenlistment code to individuals separated by reason of erroneous enlistment. The Board noted that you could have been separated for several more stigmatizing reasons, i.e., misconduct due to commission of a serious offense or personality disorder. The Board concluded that the sexual misconduct for which you received NJP provided sufficient justification to warrant assignment of an RE-4 reenlistment code. You have provided neither probative evidence nor a convincing argument in support of your application. The Board thus concluded that the reenlistment code was proper and no change if warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director